



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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May 4, 2016

Mr. David C. Fleming  
415 Danner Street  
Post Office Box 63  
Elnora, Indiana 47529

Mr. Kevin L. Hostetter  
Post Office Box 216  
Elnora, Indiana 47529

*Re: Formal Complaint 16-FC-61; Alleged Violation of the Open Door Law by the Town of Elnora Town Council (Consolidated)*

Dear Mr. Fleming and Mr. Hostetter:

This advisory opinion is in response to your formal complaint(s) alleging the Town of Elnora Town Council ("Council") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 et. seq. The Council has responded to your complaint via Ms. Deanna Callison, Councilmember. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 17, 2016.

## **BACKGROUND**

Your complaint dated March 14, 2016 alleges the Town of Elnora violated the Open Door Law by taking official action not approved in a public meeting.

On February 27, 2016, OnStar was activated on police vehicles owned by the Town. You note OnStar is paid for from Town funds; however, you allege approval was never obtained for the expense. On March 7, 2016, Ms. Callison told Mr. Hostetter approval was not needed for the expense, because approval is only required for expenses above \$500. Ms. Callison notes On Star costs \$19.99 a month.

## ANALYSIS

It is the intent of the Open Door Law (“ODL”) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See Ind. Code § 5-14-1.5-1*. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. *See Ind. Code § 5-14-1.5-3(a)*.

“Public business” means “any function upon which the public agency is empowered or authorized to take official action.” Ind. Code § 5-14-1.5-2(e). “Official action” is very broadly defined by our state legislature to include everything from merely “receiving information” and “deliberating” (defined by Indiana Code 5-14-1.5-2(i) as discussing), to making recommendations, establishing policy, making decisions, or taking a vote. Ind. Code § 5-14-1.5-2(d).

Pursuant to local governance, certain actions can be deemed administrative actions and approval is not necessary. Generally, local government units have the discretion (or procurement statutes dictate) to determine what needs approval and what does not. The Town of Elnora has chosen to leave certain budgetary matters up to the discretion of the individual Department. This is reflected by the policy that expenses under \$500 do not require Town Council approval.

The Town has decided to leave matters below this threshold to the discretion of the Police department. This Office does not opine on matters on matters of local governance. The matter is purely administrative and not a violation of the Open Door Law. It cannot be determined if any closed-door discussions took place on the part of the Council.

## CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Town of Elnora Town Council has not violated the Open Door Law.

Regards,



Luke H. Britt  
Public Access Counselor

Cc: Ms. Deanna Callison